

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civ. No. 5:19-00274-FL

DAVID PELLEGRINO,

Plaintiff,

v.

ANDREW M. SAUL,

Commissioner of Social Security,

Defendant.

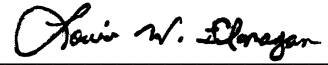
**ORDER**

Plaintiff's counsel filed a motion for approval of attorney fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$34,000.00. Attorney fees awarded under 42 U.S.C. § 406(b) may not exceed 25% of the total of the claimant's past-due benefits. Plaintiff previously has been awarded attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, the amounts of \$3,950.00 (plus \$400.00 for the filing fee, from the Treasury Judgment Fund) and \$5,000.00 (plus \$400.00 for the filing fee, from the Treasury Judgment Fund). Defendant filed a response, stating that, under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$ 34,000.00. Plaintiff's counsel will refund to Plaintiff

the smaller amount between this amount and any fee amount that previously was received under the EAJA.

SO ORDERED, this 7th day of June, 2021.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style. It is positioned above a horizontal line.

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Hon. Louise W. Flanagan  
United States District Judge  
Eastern District of North Carolina